

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-007-00014R

Parcel No. 8811-01-227-021

Dustin S. Thorson,

Appellant,

v.

Black Hawk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 25, 2016. Dustin S. Thorson was self-represented. Assistant County Attorney David Mason represented the Black Hawk County Board of Review.

Thorson is the owner of a residential property located at 254 Limerick Drive, Jesup, Iowa. The subject property includes a one-story dwelling, built in 2012, with 2489 total square feet of living area; a full, walkout basement with 2100 square-feet of living-quarters finish; an open porch; a deck; a patio; and a 1387 square-foot attached garage. The dwelling is listed in normal condition with high-quality construction quality (Grade 2+00) and geo-thermal heating. A 5% adjustment was made in 2014 for functional obsolescence because the improvements were overbuilt. The site is 0.468-acres.

The property's January 1, 2015, assessment was \$407,950, allocated as \$31,800 in land value and \$376,150 in dwelling value. Thorson's protest to the Board of Review claimed that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(b). The Board of Review denied the protest. Thorson then appealed to PAAB.

Findings of Fact

Thorson testified there are less than 50 homes in his subdivision, Emerald Acres. He said there were 25 sales since its development and the most recent highest sale was for \$320,000 in November 2013 (234 Limerick Drive). (Exhibit 2). The next highest sale was for \$300,000 in August 2014 (444 Limerick Drive). He reported that the 444 Limerick Drive property had more total living area than his, yet it has a lower assessment. Thorson reports an average sale price of \$233,479 and a median sale price of \$227,500. We note the sales used in these calculations occurred between 2002 and 2014, and lack relevance for a 2015 valuation.

Thorson calculates the average assessed value in the subdivision is \$120.33 per-square-foot, while his property is assessed at \$163.90 per-square-foot. A property located at 1624 Cork had the highest assessed value per-square-foot of dwellings with 2000 square feet or more. It is assessed at \$139 per-square-foot. Thorson indicated this property is also a one-story home, like the subject, and has high end finishes. It sold in 2012 for \$289,000. Thorson reports a property at 314 Limerick has been listed at \$350,000 and has had no offers. Thorson did not provide any information about these properties to allow us to determine if they are comparable to the subject, and thus we give this evidence and testimony no weight.

The following chart is a summary of the other ranch dwellings in the subdivision Thorson identified and believes are similar to his property, yet have lower assessments.

Address	Style	Grade	GLA	Base Fin	AV	Sale Price
Subject	1-sty frame	2+00	2489	2100	\$ 407,950	
1745 Killarney	1-sty frame	3+00	1593	none	\$ 201,070	\$ 227,500
1814 Fiona	1-sty frame	3+10	1952	200	\$ 259,660	\$ 274,850
415 Kerry	1-sty brick	3+05	1530	none	\$ 233,090	\$ 230,900

These properties have considerably less living area, very minimal or no basement finish, and inferior construction quality (Grade) compared to Thorson's dwelling. Thorson's walkout basement with 2100 square-foot of living-quarters finish has a cost, before depreciation and multiplier, of nearly \$54,000. None of the properties

have geo-thermal heating, which is listed at a replacement cost of roughly \$10,000. These differences contribute to the higher value of the subject property. We also note the sale prices support their assessments.

Thorson submitted an appraisal completed by James Herink of Rally Appraisal in Cedar Falls. Herink opined a value of \$345,000 as of January 1, 2015, using the sales comparison approach. He described the subject's location as a small community with favorable appeal, approximately 10 minutes from the Waterloo/Cedar Falls metro area. Herink identified five sales of properties that occurred in late 2013 to mid-2015. Herink adjusted them for condition, living area, basement size and finish, garage size, and other amenities.

Property Address	Site Size	TLA	Sale Date	Sales Price	Adjusted Sales Price
Subject	20,400	2489	N/A	N/A	N/A
414 Limerick	20,570	2427	6-14	\$289,000	\$330,500
444 Limerick	28,987	2570	8-14	\$300,000	\$326,000
2006 8th St	20,000	2395	4-14	\$345,000	\$356,500
234 Limerick	20,400	2804	11-13	\$320,000	\$344,400
214 James	16,253	1787	5-15	\$285,000	\$350,580

After adjustments, the indicated value range was \$326,000 to \$356,500; or \$122.82 to \$196.18 per-square-foot. Herink valued the subject property near the median of \$344,400, or \$136.18 per-square-foot compared to the assessment, which is \$163.90 per-square-foot.

We note that Herink made net positive adjustments to all of the sales, which would suggest they are inferior to the subject. The net positive adjustments range from 3% to 23%. Herink made the least amount of adjustments to Sale 3 (2006 8th St.), which might indicate that property is most comparable to the subject. 2006 8th Street was built in 2003 and is inferior to the subject in gross living area and basement size and finish. We conclude that 2006 8th St. is inferior to the subject, yet Herink determined the subject's market value is identical to that property's April 2014 sale price.

County Assessor T.J. Koenigsfeld submitted a letter providing an analysis of the subject property's assessment. He notes the Thorson property is one of the largest in the subdivision and has additional amenities that contribute to its value. He explained a residential revaluation was completed in 2015 using normal sales that occurred in 2013 and 2014. The overall sales ratio was 93%. In Thorson's area, the ratio was 92.28% based on six sales, which represented approximately 12.5% of the subdivision properties. After revaluation, the median ratio is 97.02% in Thorson's subdivision.

Koenigsfeld compared the top valued properties in the subdivision and adjusted them for differences compared to the subject property in story heights, basement finish, and amenities using the IOWA REAL PROPERTY APPRAISAL MANUAL (1998). (Exhibit A).

Koenigsfeld was critical of the appraisal, because it predominantly relied on two-story homes compared to the subject, which is a one-story home. Herink did not adjust for this difference or comment on why an adjustment was not necessary. Koenigsfeld noted it is cheaper to build up than out, which the MANUAL confirms. He also notes that Herink made no or only minor adjustments for basement finish and did not make any adjustments for other amenities such as a walkout basement and geo-thermal heating.

In the appraisal, Herink notes that sales data was limited due to the subject's custom construction, as well as its location in a small community with few annual sales. (Appraisal, p. 4). For this reason, and because the subject is a newer property built in 2012, we question why the cost approach was not also developed. As previously noted, Herink did not make any adjustments for differences in design and the appraisal is silent regarding this element of comparison. Typically, the costs to construct a one-story home would be higher than the cost to build a two-story home of equal size, due to the expanded basement footprint and roofline. For instance, the subject property has a basement footprint of 2664 square-feet compared to the comparable properties that have basements ranging from roughly 1000 square feet to 1900 square feet. The MANUAL indicates the cost of a 2450 square-foot one-story home with basement is \$163,300, compared to the cost of a 2450 square-foot two-story home with basement that has a cost of \$138,230. (MANUAL, pp 7-52; 7-61). Herink does not adjust for this additional expense in construction or explain why the market would not react to the

differences between the subject and the comparable properties, some of which are significant.

We also agree with Koenigsfeld's observations regarding the lower than typical adjustment for finished basement area and the lack of an adjustment for the walkout feature. We find Herink's basement finish adjustments to be inconsistent and do not accurately reflect the quality and amount of finish the subject property's features, as illustrated in the appraisal. (Appraisal, p. 11-12). For the foregoing reasons, we find the Herink appraisal undervalues the subject property and its reliability is undermined.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

The Herink appraisal submitted by Thorson concluded an opinion of value of \$345,000, as of January 1, 2015. Ultimately, we find Herink's appraisal undervalues the subject property.

The appraisal relied predominantly on two-story homes compared to the subject's one-story design, which has a higher cost of construction. We find the different design diminishes their comparability. Herink did not comment on the lack of an adjustment and did not develop the cost approach even though the subject property was recently constructed in 2012.

Additionally, we find the lack of an adjustment for the walkout feature, as well as what appear to be lower than typical adjustments for the amount and quality of basement finish, results in an undervaluation of the subject property. Herink also does not appear to have given any consideration to the subject's geothermal heating and cooling system, which we find adds value to the property. In total, we estimate additional adjustments to account for these features would range from \$40,000 to \$55,000 based on the costs detailed in the IOWA REAL PROPERTY APPRAISAL MANUAL. The under-adjustment of these sales is demonstrated by the fact that Herink's value conclusion is equal to the April 2014 sale price of 2006 8th St., despite our finding that 2006 8th St. is inferior to the subject.

In conclusion, we find Herink did not adjust or did not adequately adjust for the subject's features which enhance its market value. As a result, we cannot conclude the appraisal fairly represents the subject's correct fair market value. Based on the foregoing, we find Thorson has not met his burden of establishing the property is over-assessed by a preponderance of the evidence.

Order

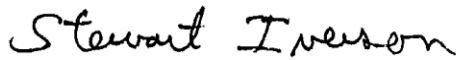
IT IS THEREFORE ORDERED that the Black Hawk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

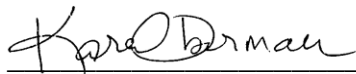
Dated this 28th day of March, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Dustin S. Thorson

David Mason